

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

WINERIES OF THE OLD MISSION
PENINSULA ASSOCIATION, *et al.*,

Plaintiffs,

Case No: 1:20-cv-01008

v.

PENINSULA TOWNSHIP, Michigan Municipal
Corporation,

Honorable Paul L. Maloney
Magistrate Judge Ray S. Kent

Defendant,

**EXPEDITED CONSIDERATION
REQUESTED**

and

PROTECT THE PENINSULA,

Intervenor-Defendant.

PLAINTIFFS' MOTION FOR PROTECTIVE ORDER

On August 31, 2023, Defendant Peninsula Township received a request under the Michigan Freedom of Information Act, Mich. Comp. Laws § 15.231 *et seq.* from an arguable agent of Intervenor-Defendant Protect the Peninsula. PTP's agent requested that Peninsula Township publicly disclose the confidential settlement communications the parties exchanged prior to the settlement conference with Magistrate Judge Kent on August 28, 2023. Pursuant to *Goodyear Tire & Rubber Co. v. Chiles Power Supply, Inc.*, 332 F.3d 976, 977 (6th Cir. 2003) (holding settlement communications are privileged), LCivR 16.1(d) ("Confidentiality - All ADR proceedings are considered to be compromise negotiations within the meaning of Fed. R. Evid. 408."), and the Stipulated Protective Order (ECF No. 75), Plaintiffs request that this Court enter an order enjoining all parties from disclosing confidential settlement communications.

Counsel for Plaintiffs sought concurrence in this motion from counsel for Peninsula Township and Protect the Peninsula. Peninsula Township did not say whether it would concur because it expressed an intent to deny the FOIA request under the litigation exemption to the FOIA,

Mich. Comp. Laws § 15.243(1)(v). However, even doing so does not obviate the need for the relief requested by this motion as the person who submitted the FOIA request could file suit in Michigan state court to compel production of the requested documents. PTP refused to concur in the relief sought by this motion. Plaintiffs request expedited consideration because Peninsula Township must respond to the FOIA request by September 25, 2023, meaning that any action by the Township must occur before a response would be due under this Court's normal briefing schedule.

WHEREFORE, Plaintiffs request that this Court enter an order enjoining all parties from disclosing confidential settlement communications to the public and grant Plaintiffs any other relief this Court deems necessary.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: /s/ Joseph M. Infante
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Dated: September 15, 2023